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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,976	10/09/2001	William L. Thomas	UV-207	9820

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EXAMINER	
BAIG, SAHAR A	

ART UNIT	PAPER NUMBER
2623	

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10/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/973,976	THOMAS ET AL.	
	Examiner	Art Unit	
	SAHAR A. BAIG	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,11-27,37-44,47-63,73-80 and 83-99* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8, 11-27, 37-44, 47-63, 73-80, and 83-99* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8,11-27, 37- 44, 47- 63, 73-80 and 83-99 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 1, 2, 11-14, 37, 38, 47-50, 73, 74, 83-86 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,822,530), in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641).

Regarding Claims 1, 37, and 73, Brown discloses a method, system, and computer program product for managing the distribution of on-demand media using an interactive television application, comprising: receiving a request for on-demand media from a user (col. 2 lines 46-51) wherein the on-demand media is associated with a suggested bandwidth for transmission of the on-demand media; determining an available bandwidth that is available for the transmission of the on-demand media; However, Brown fails to explicitly teach the comparison of available and suggested bandwidth to the user. In an analogous art, Rodriguez

discloses a technique for allocating bandwidth where comparing the suggested bandwidth to the available bandwidth is performed [0013].

Rodriguez also teaches presenting a plurality of options for the transmission of on-demand media where the option is based on the transmission of the requested on-demand media at a future time or at a reduced bandwidth **[0072].** Furthermore Rodriguez also discloses presenting to the user a plurality of sessions that are available for downloading the requested on-demand media over a range of future days **[0036 lines 16-37].**

Combining Brown and Rodriguez yields predictable results since Brown deals with an interactive communication system for processing requests for VOD media and Rodriguez teaches of dynamically creating a bandwidth allocation schedule for digital media transmission.

Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Brown and Rodriguez for the benefit of achieving a delivery system that is intelligent and efficient at management of bandwidth allocation. Still, the combined system of Brown and Rodriguez fail to teach presenting the available bandwidth to the user graphically on a display. In an analogous art, Cave clearly shows that feature in Figure 2C and 2D (col. 2 lines 42-45).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to display available and suggested bandwidth in a graphical representation.

Regarding Claims 2, 38, and 74 Brown further discloses that receiving the request comprises receiving the request for real-time: transmission of the on-demand data (col 6, lines 9-17)

Regarding Claims 11,47, and 83, Brown further discloses that presenting the available bandwidth to the user comprises displaying a graphical representation of the available on the display (such as in a graphical message, col 6, lines 20-29)

Regarding Claims 13, 49, and 85, Brown discloses comparing the suggested bandwidth to the available bandwidth comprises determining that the available bandwidth is greater than or equal to the suggested bandwidth (col. 3, lines 63-66).

Regarding Claims 14, 50, and 86, Brown further discloses comparing the suggested bandwidth to the available bandwidth comprises determining that the available bandwidth is less that the suggested bandwidth (cols. 3 and 4, lines 66-67 and 1-4).

Regarding Claims 12, 48, and 84, Brown discloses the contents of Claims 1, 37, and 81. Brown does not disclose that presenting the available bandwidth audibly.

The examiner takes official notice that presenting the available bandwidth audibly is an obvious variation on presenting the available bandwidth graphically. Audibly presenting the bandwidth to the user could be used to improve the experience of the visually impaired when using the VOD system. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine presenting the bandwidth audibly to the VOD system of Brown, Rodriguez, and Cave to improve the experience of the visually impaired.

4. Claim 3, 15, 17, 18, 22-26, 39, 51, 53, 54, 58-62, 75, 87, 89, 90, and 94-98 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,822,530), in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641) in view of Haddad (US 200510097619).

Regarding Claims 3, 39, and 75, the combined system of Brown, Rodriguez, and Cave discloses Claims 1, 37, and 73 but does not disclose receiving the request comprises receiving the request for transmission of the on-demand media at a future time. Haddad discloses that receiving the request comprises receiving the request for transmission of the on-demand media at a future time (Paragraph 13, lines 3-10). Brown, Rodriguez, Cave and Haddad are analogous art because they both come from the same field of endeavor, Video on Demand. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the time transmission of Haddad with the VOD system of Brown

because allowing the user to set a time in advance to watch the video allows for the VOD provider to better manage the transfer load of the network.

Regarding Claim 15, 51, and 87, Haddad further discloses providing a plurality of options for the transmission of the on-demand media comprises providing the user with the ability to schedule a time for the transmission of the on-demand media to the user (paragraph 3, lines 1-10). It is understood by the examiner that allowing the user to schedule a time for transmission is equivalent to allowing the user to schedule a time interval for transmission.

Regarding Claims 17, 53, and 89, Haddad further discloses providing the user with the ability to schedule the time for the transmission of the on-demand media comprises basing a price for the transmission of the on-demand media on the scheduled time (paragraph 13, lines 24-28).

Regarding Claim 18, 54, and 90, Haddad further discloses that providing a plurality of options for the real-time transmission of the on-demand media comprises recommending a time to the user for the transmission of the on-demand media to the user (paragraph 13, lines 24-28). It is understood by the examiner that recommending a time for transmission is equivalent to encouraging distribution during certain hours.

Regarding Claims 22, 58, and 94, Haddad further discloses that providing a

plurality of options for the transmission of the on-demand media comprises providing the option to transmit the on-demand media to a recording device for the presentation to the user at a scheduled time (paragraphs 13 and 15, lines 19-23 and 1-4).

Regarding Claims 23, 59, and 95 Haddad further provides the option to transmit the on-demand media to the recording device for the presentation to the user at the scheduled time comprises basing the price for the transmission of the on-demand media to the recording device on the scheduled time (paragraph 13 lines 13-28).

Regarding Claims 24, 60, and 96, Brown further discloses that transmitting the on-demand media in a plurality of sections wherein each section is transmitted at the suggested bandwidth (col. 3, 63-66).

Regarding Claims 25, 61, and 97, Brown further discloses further transmitting the on-demand media in a plurality of sections and wherein at least one of the plurality of sections has a bandwidth that is different than the suggested bandwidth (cols. 3 and 4, lines 66-67 and 1-4). On-demand media is transmitted as a series of frames where each frame could be understood as its own section. In the case of Brown, when there is not Sufficient bandwidth for the VOD

presentation, all sections are transmitted at a bandwidth that is different than the suggested bandwidth.

Regarding Claims 26, 62, and 98, Brown further discloses comprising transmitting the on-demand media at a bandwidth that is different than the suggested bandwidth (cols. 3 and 4, lines 66-67 and 1-4). It is assumed that VOD presentation of the media in Brown is broadcasted at the suggested bandwidth and the NVOD presentation is at a different bandwidth.

5. Claim5, 6, 7, 8, 41, 42, 43, 44, 77, 78, 79, and 80 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,822,530), in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641), in further view of Schumacher (US 6,757,907).

Regarding Claims 5, 41, and 77, the combined system of Brown, Rodriguez, and Cave, discloses the content of Claims 1, 37, and 73 but does not disclose presenting the suggested bandwidth to the user. Schumacher discloses presenting the suggested bandwidth to the user (fig. 2.221). Brown and Schumacher are analogous art because they both come from the same field of endeavor, Video on Demand. At the time of the invention, it would have been obvious to a person of ordinary skill that in the art to combine the bandwidth

display of Schumacher with the VOD system of Brown because it allows the user to know how much of the network's resources he is using.

Regarding Claims 6, 42, and 78, Schumacher further discloses presenting the suggested bandwidth to the user comprises displaying the suggested bandwidth on the display (fig. 2.221).

Regarding Claims 7, 43, and 79, Cave further discloses presenting the suggested bandwidth to the user comprises displaying a graphical representation of the suggested bandwidth on the display (Fig. 2C and 2D).

Regarding Claims 8, 44, and 80, Brown, Rodriguez, Cave, and Schumacher do not disclose presenting the suggested bandwidth audibly. The examiner takes official notice that presenting the suggested bandwidth audibly is an obvious variation on presenting the suggested bandwidth graphically, as in Cave (Fig. 2C and 2D). Audibly presenting the bandwidth to the user could be used to improve the experience of the visually impaired. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine presenting the bandwidth audibly to the VOD system of Brown, Rodriguez, Cave, and Schumacher to improve the experience of the visually impaired.

6. Claim16, 52, and 88 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,822,530) in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641) in view of Haddad (US 200510097619) and Schumacher (US 6,757,907).

Regarding Claims 16, 52, and 88, Brown, Rodriguez, Cave, and Haddad jointly disclose Claims 15, 51, and 87. However, they do not disclose providing the user with an ability to request a -version of the on-demand media having a reduced bandwidth. Schumacher discloses providing the user with an ability to request a version of the on-demand media having a reduced bandwidth (fig. 2.221). It is understood that if there are two bandwidths available, one must be smaller than the other and so reduced as compared to the other. Brown, Haddad, and Schumacher are analogous art because they both come from the same field of endeavor, Video on Demand. At the time of the invention, it would have been obvious to a person of ordinary skill that in the art to combine the bandwidth display of Schumacher with the VOD system of Brown and Haddad because it allows the user to choose how much of the network's resources he is using.

7. Claim 4, 9-21, 40, Brown (US 5,822,530) in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641) in view of Shah-Nazaroff (US 6,157,377).

Regarding Claims 4, 40, and 76, the combined system of Brown, Rodriguez, Cave, disclose the contents of claims 1, 37, and 73. But it does not disclose receiving the request for on-demand media that is selected from the group consisting of an audio selection, a video selection, an electronic publication, an electronic game, a software application, and any combination thereof. Shah-Nazaroff discloses receiving the request for on-demand media that is selected from the group consisting of an audio selection, a video selection, an electronic publication, an electronic game, a software application, and any combination thereof (fig. 5). Brown and Shah-Nazaroff are analogous art because they both come from the same field of endeavor, Video on Demand. At the time of the invention, it would have been obvious to a person of ordinary skill that in the art to combine the available time slots display of Shah-Nazaroff with the VOD system of Brown because it allows the user to easily choose when he will watch the media. Shah-Nazaroff does disclose providing the option of the on-demand media comprises presenting a general trend to the user of available time slots for the transmitting on-demand media in response to user requests (fig. 5). In this case, the general trend to the user of available time slots is that of once every 2 hours.

As regards Claims 19, 55, and 91, Shah-Nazaroff further discloses providing a plurality of options for the transmission of the on-demand media comprises presenting a general trend to the user of available time slots for transmitting on-

demand media in response to user requests (see optional programming guide, fig. 5).

As regards Claims 20, 56, and 92, Shah-Nazaroff further discloses providing a plurality of options for the transmission of the on-demand media comprises providing the user with an ability to request a version of the on-demand media having a reduced bandwidth (fig 5).

As regards Claims 21, 57, and 93, Shah-Nazaroff further discloses providing the user with the ability to request the version of the on-demand media having the reduced bandwidth comprises basing a price for the transmission of the on-demand media on the reduced bandwidth (fig. 5).

8. Claim 27, 63, and 99 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 5,822,530) in view of Rodriguez (US 2005/0071882), in further view of Cave (5,859,641) in view of Haddad (US 200510097619) and Shah-Nazaroff (US 6,157,377).

Regarding Claims 27, 63, and 99, Brown, Rodriguez, Cave, and Haddad jointly disclose Claims 22, 58, and 94, but do not disclose providing an option to transmit the on-demand media to the recording device for presentation to the user at the scheduled time comprises basing a price for the transmission of the

on-demand media on the available bandwidth. Shah-Nazaroff discloses providing an option to transmit the on-demand media to the recording device for presentation to the user at the scheduled time comprises basing a price for the transmission of the on-demand media on the available bandwidth (fig. 5). Brown, Rodriguez, Cave, Haddad, and Shah-Nazaroff are analogous art because they both come from the same field of endeavor, Video on Demand. At the time of the invention, it would have been obvious to a person of ordinary skill that in the art to combine the pricing scheme for bandwidth of Shah-Nazaroff with the VOD system of Brown and Haddad because it allows the user to easily choose the quality of picture for the transmission.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on 4/5/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

SB